



HUMAN RIGHTS COMMISSION

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ALS NO: S04-102

2. On March 14, 2004, the Department filed the instant Complaint of Discrimination on Complainant's behalf, alleging that Complainant was the victim of

unlawful retaliation under section 6-101(A) of the Human Rights Act (775 ILCS 5/6-101(A)), and that Respondent John Vaughan unlawfully aided and abetted said retaliation under section 6-101(B) of the Human Rights Act (775 ILCS 5/6-101(B)).

3. On April 30, 2004, an Order was entered which established a discovery schedule and directed the parties to participate in a future telephone conference on August 4, 2004. The Order also directed Complainant, who was acting on her own behalf, to supply the Commission with a current telephone number where she could be reached during business hours.

4. On July 9, 2004, Respondents filed a motion to compel/motion to dismiss the case due to Complainant's failure to serve any responses to outstanding discovery requests. Complainant did not file a response to this motion.

5. On August 4, 2004, an Order was entered which granted Respondents' motion to compel and directed Complainant to serve Respondents with responses to all outstanding discovery requests by August 26, 2004. The Order also noted that Complainant had not supplied the Commission with her telephone number as directed by the Order of April 30, 2004, thus preventing the Commission from conducting a telephone conference that had been scheduled for that day. Accordingly, Complainant was directed to forthwith supply the Commission with her telephone number. Complainant was also warned that the failure to provide the Commission with a current telephone number or to serve Respondents with responses to outstanding discovery placed her at risk for an entry of a recommended order dismissing this case for want of prosecution.

6. On August 6, 2004, an Order was entered that directed both parties to participate in a telephone conference on September 15, 2004 to discuss the status of discovery.

7. On September 15, 2004, an Order was entered which reflected the fact that Complainant had still failed to supply the Commission with a current telephone number, and that the scheduled telephone conference had not taken place. Complainant was directed to file a response by September 29, 2004, that explained her failure to supply the Commission with a telephone number and her failure to supply Respondents with responses to outstanding discovery requests.

8. Complainant has not complied with the September 15, 2004 Order as of the date of this Order and has not filed any proof of service indicating that she served any responses to outstanding discovery requests.

### **Conclusions of Law**

1. A Complaint may be dismissed when a party engages in conduct that unreasonably delays or protracts proceedings. See, 56 Ill. Admin. Code, Ch. XI, §5300.750(e).

2. The Complainant has unreasonably delayed proceedings by failing to tender responses to discovery requests or comply with Commission directives to participate in any scheduled status conferences.

### **Determination**

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a Complaint be dismissed where a complainant engages in conduct that unreasonably delays or protracts proceedings. (See, 56 Ill. Admin. Code, Ch. XI, §5300.750(e).) On review, the Commission has upheld the use of such discretion to dismiss complaints in circumstances which are analogous to the case at bar. See, for example, **Ramirez and Wasco Spring Company**, 40 Ill. HRC Rep. 266 (1988), and **Hartford and Mitsubishi Motor Manufacturing of America**, \_\_\_ Ill. HRC Rep. \_\_\_ (1998SF0357, August 16, 2000).

Here, the circumstances also indicate that Complainant's inaction has served to unreasonably delay these proceedings. Specifically, I note that Complainant has apparently not served responses to outstanding discovery requests, even though she was directed to do so on August 4, 2004, and has further failed to supply the Commission with a current telephone number for the purpose of participating in status conferences, although she was directed to do so on April 30, 2004, and August 4, 2004. Moreover, Complainant did not provide any excuse for failing to comply with these Commission directives, although she was warned that she risked the entry of a recommended order dismissing her case if she continued to ignore legitimate discovery requests or directives from the Commission. Complainant's failure to either serve Respondents with discovery responses or attend status conference calls has resulted in an unreasonable delay in this case and renders it difficult for the Commission to take any action with regard to this case except to dismiss it. See, for example, **Foster and Old Republic General Services, Inc.**, \_\_\_ Ill. HRC Rep. \_\_\_ (1990CA2290, November 8, 1993).

#### **Recommendation**

Accordingly, I recommend that the Complaint and the underlying Charge of Discrimination of Kathryn Allison be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL R. ROBINSON  
Administrative Law Judge  
Administrative Law Section

ENTERED THE 29TH DAY OF OCTOBER, 2004